

## **Appendix H**

### **Cooperating Agency Agreements**



## **H.1 U.S. DEPARTMENT OF ENERGY**



**DEFENSE LOGISTICS AGENCY  
DEFENSE NATIONAL STOCKPILE CENTER  
8725 JOHN J. KINGMAN ROAD, SUITE 3339  
FT. BELVOIR, VIRGINIA 22060-6223**



IN REPLY  
REFER TO DLA-CAAE

AUG 27 1999

Carol Borgstrom, Director  
Office of NEPA Policy and Assistance  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, D.C. 20585

Re: Request to Participate as Cooperating Agency – Defense National Stockpile Center  
Environmental Impact Statement for the Disposition of Stockpiled Mercury

Dear Ms. Borgstrom:

The Defense National Stockpile Center (DNSC), a primary level field activity of the Defense Logistics Agency (DLA), is about to prepare an environmental impact statement (EIS) to assess the environmental impacts associated with disposition of excess mercury that was stockpiled for national defense. To ensure that the Department of Energy's (DOE's) interests are fully explored in the document, the DLA invites DOE to participate in this EIS as a cooperating agency pursuant to the regulations that implement the procedural provisions of the National Environmental Policy Act (NEPA), 40 C.F.R. Part 1501.6.

The Defense National Stockpile Center (DNSC) suspended sales of excess mercury in 1994 because of congressional, Environmental Protection Agency (EPA), and public concerns over mercury accumulation in the environment. Stockpiled mercury is now warehoused at five (5) locations in the United States: New Haven, IN, Warren, OH, Somerville, NJ, Binghamton, NY, and Oak Ridge, TN. Due to the size of the inventory (4,408 metric tons), and the concerns surrounding mercury, the NEPA and DLA's implementing regulations require DNSC to prepare an EIS before any final disposition decisions can be made.

DLA is inviting the DOE to participate as a cooperating agency in the preparation of this EIS because: (1) DOE manages an inventory of stockpiled mercury that could be affected by any decision the DNSC reaches; (2) approximately 1.5 million pounds of the DNSC managed mercury is co-located with approximately 1.5 million pounds of DOE managed mercury at the DOE facility located at the Oak Ridge National Laboratory; (3) the DOE possesses special expertise associated with mercury in the environment and on long term storage of hazardous materials; and (4) the DOE is currently conducting studies on mercury stabilization, i.e., an amalgamation process.

DNSC recently established an interdisciplinary EIS Team consisting of Stockpile and non-Stockpile employees to implement the EIS process. DNSC EIS Team members Delores Thompson, (Team Leader), Dale Wilhelm (Senior NEPA specialist) and Dennis Lynch (DNSC inventory specialist), met with Mr. Gary Palmer and other DOE personnel on August 19, 1999 to discuss DOE's participation in the mercury EIS. As they noted DNSC is in the preliminary stages of planning this EIS, and is uncertain when it will issue a Notice of Intent. However, the DLA believes that early cooperation by the DOE in the process is imperative.

For further information, please contact me at the Defense Logistics Agency, Office of Environment and Safety Policy, 8725 John Kingman Road, Suite 2533, Ft. Belvoir, VA 22060-6221, (703) 767-6278.


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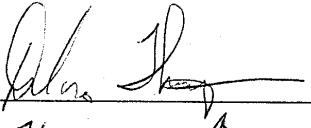
You may also contact me by electronic mail at [jan\\_reitman@hq.dla.mil](mailto:jan_reitman@hq.dla.mil). I look forward to working with you on this project.

Sincerely,

  
JAN REITMAN  
Staff Director  
Environment and Safety Policy

cc: Richard J. Connelly  
Administrator, DNSC-D  
DLA-CAAR

Department of Energy  
Request to Participate as Cooperating Agency – Defense National Stockpile Center  
Environmental Impact Statement for the Disposition of Stockpiled Mercury  
Page 2 of 2

Coordination:	<u></u>	DATE	<u>Aug 24, 1999</u>
EIS TEAM	<u>Thompson</u>	DATE	<u>Aug 24, 1999</u>
DNSC-M	<u>T-M</u>	DATE	<u>8/24/99</u>
DNSC-P	<u>las</u>	DATE	<u>8/24/99</u>
DNSC-G		DATE	
DNSC-DD		DATE	
DNSC-D	<u>8/24/99</u>	DATE	



**Department of Energy**

Washington, DC 20585

October 20, 1999

Jan Reitman, Staff Director  
Environment and Safety Policy  
Defense Logistics Agency  
Defense National Stockpile Center  
8725 John J. Kingman Road, Suite 3339  
Ft. Belvoir, VA 22060-6223

Dear Mr. Reitman:

Thank you for your letter of August 27, 1999 inviting the Department of Energy (DOE) to participate as a cooperating agency in the preparation of the Defense Logistics Agency's (DLA) environmental impact statement (EIS) on the disposition of excess mercury. We appreciate your timely request for our participation as well as the briefing for DOE staff on August 19, 1999.

For the reasons cited in your letter concerning DOE's special expertise and after conferring with the Office of Defense Programs and my senior management, we agree that it is reasonable for DOE to participate as a cooperating agency in this EIS process. As you know, DOE is preparing a site-wide EIS for the Y-12 Plant located at Oak Ridge, TN. At a Y-12 Site-wide EIS workshop on September 27, 1999, DOE advised that Oak Ridge could be one of the alternative sites analyzed for mercury disposition.

As a cooperating agency, DOE will, to the extent it can and in accordance with 40 CFR 1501.7, participate in the scoping process, provide any requested information/data, and review portions of the EIS related to DOE facilities. These commitments are subject to the availability of personnel resources and adequate funding. We would ask that DLA provide funding for any major activities or analyses it requests of DOE.

As you indicated, the Defense National Stockpile Center has established an interdisciplinary EIS Team consisting of Delores Thompson (Team Leader), Dale Wilhelm, and Dennis Lynch. DOE's points of contact include Henry Garson, the Office of Defense Programs NEPA Compliance Officer in Washington, DC; Gary Hartman, the Y-12 NEPA Document Manager at Oak Ridge; and Jim Daniel of my staff.

If I can be of further assistance, please feel free to contact me at (202) 586-4600 or Jim Daniel at (202) 586-9760.

Sincerely,

A handwritten signature in cursive script, reading "Carol M. Borgstrom", is positioned above the typed name.

Carol M. Borgstrom  
Director  
Office of NEPA Policy and Assistance



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cc: Henry Garson, DP-42  
Gary Hartman, Y-12 NDM  
David Allen, OR NCO



## **H.2 U.S. ENVIRONMENTAL PROTECTION AGENCY**



DEFENSE LOGISTICS AGENCY  
DEFENSE NATIONAL STOCKPILE CENTER  
8725 JOHN J. KINGMAN ROAD, SUITE 3229  
FT. BELVOIR, VIRGINIA 22060-6223

IN REPLY  
REFER TO

February 20, 2003

Ms. Anne Norton Miller  
Director  
Office of Federal Activities  
United States Environmental  
Protection Agency  
MS 2251A  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Ms. Miller:

As you know, the Defense National Stockpile Center (DNSC), a Defense Logistics Agency (DLA) field activity, is preparing an environmental impact statement (EIS) to assess the environmental impacts associated with alternatives for long-term management of excess mercury which was stockpiled for national defense. As you are aware, Congressional, U. S. Environmental Protection Agency (EPA), and public concerns over mercury accumulation in the environment persuaded DNSC to suspend sales of excess mercury in 1994. Stockpiled mercury is now warehoused at four (4) locations in the United States: New Haven, Indiana; Warren, Ohio; Somerville, New Jersey; and Oak Ridge, Tennessee. Because of the size of the inventory (4,436 metric tons), and concerns surrounding mercury, DLA's National Environmental Policy Act (NEPA) implementing regulations require DNSC to prepare an EIS before any final disposition or management decisions can be made.

During the past two years, EPA staff has been fully engaged in ensuring that EPA's interests regarding the long-term management of the DNSC mercury were communicated to DLA. The DLA therefore invites EPA to be officially recognized as a cooperating agency pursuant to the regulations implementing the procedural provisions of NEPA, 40 C.F.R. Part 1501.6. This status is consistent with Attachment 1 to Council on Environmental Quality Chairman James Connaughton's January 30, 2002, Memorandum for the Heads of Federal Agencies entitled "Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act (NEPA)."

More specifically, DLA invites EPA to be recognized as a "cooperating agency" because EPA has provided DNSC with valuable technical information based on your agency's special expertise in three relevant areas: (1) mercury fate and transport in the environment; (2) regulation of hazardous materials; and (3) development and evaluation of mercury stabilization and disposal technology. EPA has been working closely with DLA on development of this EIS almost from its inception and currently has several

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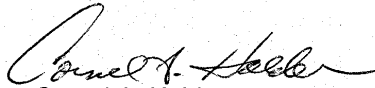


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offices represented on an Interagency Working Group that was formed in early 2001 to support development and coordination of this EIS. Recognition of "cooperating agency" status would formalize the significant contributions EPA has made to DNSC's decision-making process.

I look forward to a positive response to this invitation and continuing to work with you and your staff on this project. You may contact me at the Defense Logistics Agency, Defense National Stockpile Center, 8725 John J. Kingman Road, Suite 3229, Ft. Belvoir, VA 22060-6221, (703) 767-5476. You may also contact me by electronic mail at [cornel.holder@dla.mil](mailto:cornel.holder@dla.mil).

Sincerely,

A handwritten signature in black ink, appearing to read "Cornel A. Holder", with a stylized flourish at the end.

Cornel A. Holder  
Administrator  
Defense National Stockpile Center

**Mercury Management  
Environmental Impact Statement**

**Cooperating Agency Agreement  
Between  
Defense Logistics Agency (DLA), the Lead Federal Agency  
and  
U.S. Environmental Protection Agency (EPA), a Cooperating Agency**

**INTRODUCTION**

This Agreement sets forth the responsibilities of DLA and EPA with respect to the preparation of both the Draft and Final Environmental Impact Statements (EIS) for Mercury Management. The Defense National Stockpile Center (DNSC), a DLA field activity, is preparing an EIS to assess the environmental impacts associated with alternatives for long-term management of excess mercury that was stockpiled for national defense. Congressional, EPA, and public concerns over mercury accumulation in the environment led DNSC to suspend sales of excess mercury in 1994. The stockpiled mercury is now warehoused at four locations in the United States.

Over the past two years, EPA has been fully engaged in ensuring that EPA's concerns with regard to the long-term disposition of the DNSC mercury are fully explored in the EIS. DLA, therefore, requested that EPA be officially recognized as a cooperating agency pursuant to the regulations that implement the National Environmental Policy Act (NEPA), 40 C.F.R. Section 1501.6. Also see Council on Environmental Quality Chairman James Connaughton's January 30, 2002, Memorandum for the Heads of Federal Agencies entitled "Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act."

More specifically, EPA's responsibilities as a cooperating agency are to provide DNSC with technical information based on EPA's expertise in three relevant areas: (1) mercury fate and transport in the environment; (2) regulation of hazardous materials; and (3) development and evaluation of mercury stabilization and disposal technology. EPA has been providing such technical information to DLA during development of this EIS and currently has several offices represented on an Interagency Working Group (IAWG) that was formed in early 2001 to support development and coordination of this EIS. The purpose of this Cooperating Agency Agreement is to formalize EPA's contributions and role.

**EPA RESPONSIBILITIES**

1. EPA agrees to actively participate in the IAWG..
2. EPA will review preliminary documents and provide comments to DLA and will deliver comments in accordance with a specified timetable.

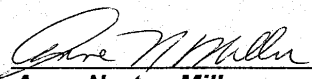
3. The comments provided by EPA to DLA are advisory.
4. During its participation in the review and comment process, EPA will seek to work within DLA's EIS preparation schedule.

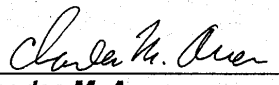
#### LEAD AGENCY RESPONSIBILITIES

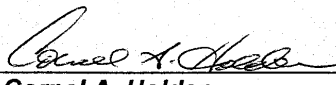
1. DLA will forward to EPA all comments it receives from the IAWG members during preparation of the Draft EIS as well as all comments it receives during the formal EIS comment period.
2. DLA will consult with EPA but will retain sole responsibility for determination of which alternative is selected and what mitigation measures will be included in the project. DLA acknowledges that EPA's role as a cooperating agency does not imply EPA's endorsement of DLA's final selection of a specific alternative or of specific mitigation measures.
3. DLA acknowledges that EPA will conduct official reviews of the Draft and Final EIS in accordance with Section 309 of the Clean Air Act, 42 U.S.C. 7609.
4. EPA will be given preliminary copies of the Draft and Final EIS for review and comment prior to final lead agency approval and distribution of the documents. The lead agency will place a copy of this Agreement in the Draft and Final EIS.
5. This Agreement will be terminated when the DLA Record of Decision is signed or when written notice is given by either agency.

#### POINTS OF CONTACT

Ms. Marguerite Duffy shall serve as the USEPA Point of Contact and Mr. Dennis Lynch shall serve as the DLA Point of Contact for all matters relating to this Agreement.

 3/10/03  
**Anne Norton Miller** **DATE**  
**Director**  
**Office of Federal Activities**  
**United States Environmental**  
**Protection Agency**

 3/11/03  
**Charles M. Auer** **DATE**  
**Director**  
**Office of Pollution Prevention and**  
**Toxics**  
**United States Environmental**  
**Protection Agency**

 2/24/03  
**Cornel A. Holder** **DATE**  
**Administrator**  
**Defense National Stockpile Center**  
**Defense Logistics Agency**